

IN THE HIGH COURT OF DELHI AT NEW DELHI

ORIGINAL JURISDICTION

CP Nos. 4/2007, 5/2007, 6/2007 & 7/2007

Date of Decision: 8<sup>th</sup> May, 2007

In the matter of The Companies Act, 1956;

CP No.4/2007

Grand Meadows Limited ... Petitioner no.1/Transferor  
Company no.1

Papillon Estates Limited ... Transferor Company no.2

Roseview Estates Private Limited ... Transferor Company no.3

Bhasin Resorts Private Limited ... Transferor Company no.4

And

Anant Raj Industries Limited ... Transferee Company

Through: Mr.Subhash Sharma, Advocate for  
petitioner.  
Mr.R.D.Kashyap, Dy.ROC.  
Ms.Manisha Tyagi, Advocate for the  
Official Liquidator.

CP No.5/2007

Grand Meadows Limited ... Transferor Company no.1

Papillon Estates Limited ... Petitioner no.2/Transferor  
Company no.2



Roseview Estates Private Limited ... Transferor Company no.3

Bhasin Resorts Private Limited ... Transferor Company no.4

And

Anant Raj Industries Limited ... Transferee Company

Through: Mr.Subhash Sharma, Advocate for  
petitioner.  
Mr.R.D.Kashyap, Dy.ROC.  
Ms.Manisha Tyagi, Advocate for the  
Official Liquidator.

**CP No.6/2007**

Grand Meadows Limited ... Transferor Company no.1

Papillon Estates Limited ... Transferor Company no.2

Roseview Estates Private Limited ... Petitioner no.3/Transferor  
Company no.3

Bhasin Resorts Private Limited ... Transferor Company no.4

And

Anant Raj Industries Limited ... Transferee Company

Through: Ms.Gauri Setia, Advocates for  
petitioner.  
Mr.R.D.Kashyap, Dy.ROC.  
Ms.Manisha Tyagi, Advocate for the  
Official Liquidator.

**CP No.7/2007**

Grand Meadows Limited ... Transferor Company no.1  
Papillon Estates Limited ... Transferor Company no.2  
Roseview Estates Private Limited ... Transferor Company no.3  
Bhasin Resorts Private Limited ... Petitioner no.4/Transferor  
Company no.4

And

Anant Raj Industries Limited ... Transferee Company

Through: Ms.Gauri Setia, Advocates for  
petitioner.  
Mr.R.D.Kashyap, Dy.ROC,  
Ms.Manisha Tyagi, Advocate for the  
Official Liquidator.

In the matter of Scheme of Amalgamation of:-

Grand Meadows Limited ... Transferor Company no.1  
Papillon Estates Limited ... Transferor Company no.2  
Roseview Estates Private Limited ... Transferor Company no.3  
Bhasin Resorts Private Limited ... Transferor Company no.4

And

Anant Raj Industries Limited ... Transferee Company

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**ANIL KUMAR, J. (Oral)**

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1. These are the petitions under Sections 391 and 394 of the Companies Act, 1956 seeking sanction of the scheme of amalgamation of Grand Meadows Limited, (Transferor Company no.1); Papillon Estates Limited (Transferor Company no.2); Roseview Estates Private Limited (Transferor Company no.3); Bhasin Resorts Private Limited (Transferor Company no.4) and Anant Raj Industries Limited (Transferee Company).

2. The registered offices of the Transferor Company nos.1, 2, 3 and 4 are situated at Delhi within the jurisdiction of this Court.

3. The registered office of the Transferee Company is situated at Rewari, Haryana.

4. The petitioner companies had filed Company Application Nos.190, 191, 192 & 193/2006 which were allowed by order dated 8<sup>th</sup> December, 2006. While allowing the applications, the requirement of conducting statutory meetings of equity shareholders, secured and unsecured creditors of the transferor company nos.1, 2, 3 and 4 was

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dispensed with on account of the consent given by the equity shareholders, secured and unsecured creditors.

5. After the present petitions were filed citations were directed to be published by order dated 16<sup>th</sup> January, 2007 in "The Statesman" (English) and "Jansatta" (Hindi), in terms of Companies (Court) Rules, 1959. An affidavit dated 7<sup>th</sup> March, 2007 has been filed on behalf of the petitioner companies about the publication of the citations in "The Statesman" (English) and "Jansatta" (Hindi) on 23<sup>rd</sup> February, 2007. The paper cuttings containing the publication of the said citations were also produced along with the affidavit.

6. The notices were issued to the Official Liquidator and the Regional Director (Northern Region). Pursuant to the notice issued to the Official Liquidator, a report dated 23<sup>rd</sup> April, 2007 has been filed by the Official Liquidator. The Official Liquidator sought information from the petitioner companies by Official Liquidator's letter No.OL/Tech/Amal/227/247 dated 7<sup>th</sup> February, 2007 which was furnished by the Petitioner Companies.

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7. The Transferor Company no.1 was incorporated on 31<sup>st</sup> December, 1996. The Registered Office of the company is situated at H-65, Connaught Circus, New Delhi. The registered office of the company is situated within the jurisdiction of this Court. The authorised share capital of the Transferor Company no.1 as on date is Rs.5,50,000/- divided into 55,000 equity shares of Rs.10/- each. The issue, subscribed and paid up share capital of the Transferor Company no.1 is Rs.5,43,250/- divided into 54,325 equity shares of Rs.10/- each.

8. The Transferor Company no.2 was incorporated on 3<sup>rd</sup> February, 1997. The Registered Office of the company is situated at H-65, Connaught Circus, New Delhi. The registered office of the company is situated within the jurisdiction of this Court. The authorised share capital of the Transferor Company no.2 as on date is Rs.5,60,000/- divided into 56,000 equity shares of Rs.10/- each. The issue, subscribed and paid up share capital of the Transferor Company no.2 is Rs.5,52,700/- divided into 55,270 equity shares of

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Rs.10/- each.

9. The Transferor Company no.3 was incorporated on 13<sup>th</sup> August,2004. The Registered Office of the company is situated at H-65, Connaught Circus, New Delhi. The registered office of the company is situated within the jurisdiction of this Court. The authorised share capital of the Transferor Company no.3 as on date is Rs.1,15,000/- divided into 11,500 equity shares of Rs.10/- each. The issue, subscribed and paid up share capital of the Transferor Company no.3 is Rs.1,12,850/- divided into 11,285 equity shares of Rs.10/- each.

10. The Transferor Company no.4 was incorporated on 24<sup>th</sup> February, 2004. The Registered Office of the company is situated at E-9, Khanpur Extension, Devli Road, New Delhi. The registered office of the company is situated within the jurisdiction of this Court. The authorised share capital of the Transferor Company no.4 as on date is Rs.2,50,00,000/- divided into 25,00,000 equity shares of Rs.10/- each. The issue, subscribed and paid up share capital of

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the Transferor Company no.4 is Rs.1,04,200/- divided into 10,420 equity shares of Rs.10/- each.

11. The Official Liquidator has considered the accounts of Transferor Company nos.1, 2, 3 & 4 as on 31<sup>st</sup> March, 2006.

12. The Official Liquidator in its report has stated that he has not received any complaint against the scheme of amalgamation from any person/parties interested in the scheme in any manner and on the basis of information submitted by the Transferor Companies, it was inferred that the affairs of the Transferor Companies do not appear to have been conducted in a manner prejudicial to the interest of its members or to the public interest in accordance with the provisions of Section 394(1) of the Companies Act, 1956.

13. The report has been filed by the Regional Director (North) by an affidavit of Shri Rakesh Chandra contending that by virtue of power delegated to him under Section 394-A of the Companies Act, 1956, he is competent to make the affidavit.

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14. Relying on clause 9.1 of the scheme of amalgamation, it is contended that all the employees of the Transferor Companies shall become the employees of the Transferee Company without any break or interruption in their services on the sanctioning of the scheme of amalgamation.

15. The Regional Director has objected to the scheme on the ground that the authorised share capital of the Transferee Company is not sufficient to allot shares to the members of Transferor Companies and a direction has been sought to the Transferee Company to increase its authorised share capital after following the procedure prescribed under the Companies Act, 1956. Objecting to para 19(xii) of the petition contemplating clubbing of authorised capital of Transferor Companies and the Transferee Company thereby causing an increase in the authorised share capital of the transferee company, it has been contended on behalf of the Regional Director that the authorised share capital of a company can be increased only after following the procedure prescribed under the Companies Act, 1956 and on

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payment of requisite fee to the Registrar of Companies and the stamp duty to the State Government.

16. The objection of the Regional Director is opposed by the petitioner companies and affidavits of Shri Amit Sarin, Director of transferor company nos. 1, 2 & 3 and Shri Heera Lal Bhasin, Director of the Transferor Company no.4, has been filed in reply to the objections taken on behalf of Regional Director.

17. Regarding insufficiency of authorised capital of the Transferee Company, it is contended that the authorised capital of the Transferee Company as on date is Rs.50,00,00,000/- divided into 4,00,00,000 equity shares of Rs.10/- each and 1,00,00,000 unclassified shares of Rs.10/- each. Regarding paid up capital, it is stated that the issued, subscribed and paid up capital of Transferee Company is Rs.25,28,23,000/- divided into 2,52,82,300 of Rs.10/- each and the new shares which are to be issued by the transferee company to the members of the transferor companies on amalgamation is of Rs. 55,06,744. Therefore the total issued, subscribed and paid up capital

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of the transferee company, on amalgamation, after the allotment of shares to the members of the transferor Companies would be Rs.30,78,90,440/- divided into 3,07,89,044 shares of face value of Rs.10/- each. Thus, the present authorised capital of the Transferee Company is sufficient to allot shares to the members of the Transferor Companies and the objection of the Regional Director is not sustainable and is rejected

18. Regarding adding of authorised share capital of the Transferor Companies with the authorised share capital of the transferee company on amalgamation it was stated that the scheme does not contemplate the same and that the petitioners desires to forgo it, as the authorised share capital of the transferor companies is very less when compared to the authorised share capital of the transferee company and adding it to the authorised share capital of the transferee company would not make any significant difference to the total authorised share capital of the amalgamated company post amalgamation and therefore, the petitioners do not intend to increase the authorised capital of the transferee company by adding to it the

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authorised share capital of the transferor companies after amalgamation. It was, however, stated that if required the authorised share capital of the transferee company will be increased after following the procedure prescribed under the relevant provisions of the Companies Act, 1956. Consequently the authorised share capital of the transferor companies would extinguish upon the winding up of the transferor companies on sanction being granted to the scheme of amalgamation. In view of the statement and the affidavit filed by the petitioner companies the objections raised by the Regional Director does not survive.

19. The petitioner companies have also stated that no proceedings are pending against them under Section 235 to 251 of the Companies Act, 1956. No other objection has been raised by the Regional Director against the scheme of amalgamation of transferor companies with transferee company.

20. The transferee company, Anant Raj Industries Limited, has also filed a petition under Section 391-394 at the High Court of Judicature

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at Chandigarh which is pending adjudication.

21. Therefore, having regard to the averments made in the petitions, the material placed on record and the affidavits filed on behalf of the petitioner companies, the prayers made in the petitions are to be allowed. There is no legal impediment to sanction the scheme of amalgamation which is annexed with the petitions which is liable to be sanctioned.

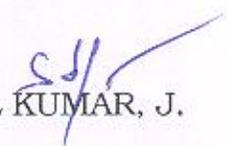
22. Consequently, sanction is hereby granted to the scheme of amalgamation under Section 391 and 394 of the Companies Act, 1956 subject to the approval of the scheme in respect of the transferee company by High Court of Punjab and Haryana at Chandigarh where similar petition has been filed by the transferee company. Certified copy of this order be filed with the Registrar of Companies within five weeks. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty, if any, that may be payable in accordance with law. Upon sanction becoming effective and from appointed date, the Transferor

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Companies will be dissolved without being wound up and the authorized share capital of the transferor companies will get extinguished as the scheme does not contemplate merger of authorized share capital of the transferor companies with the transferee company. Cost of Rs.20,000/- be paid by the petitioners to the official liquidator which will be deposited in the Common Pool fund of the Official Liquidator.

23. The petitions are disposed of with these directions.

May 8<sup>th</sup>, 2007  
'sdp'

  
ANIL KUMAR, J.

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**Authorised Under Section 7E**  
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Companies will be dissolved without being wound up and the authorized share capital of the transferee companies will be reconstituted as the solvent does not constitute the liquidation of the transferor companies and the

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Application No. 23507  
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Sebal & Co. Secy

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